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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. APHIS-2009-0094]

RIN 0579-AD45

Importation of Live Birds and Poultry, Poultry Meat, and Poultry Products From a Region in the European Union; Technical Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: In a final rule published in the Federal Register on March 29, 2013, and effective on April 15, 2013, we amended the regulations governing the importation of animals and animal products by recognizing 25 Member States of the European Union (EU) as the Animal and Plant Health Inspection Service (APHIS)-defined EU Poultry Trade Region. In that rule, we established requirements for the importation of live birds and poultry, and poultry meat and products, from the APHIS-defined EU Poultry Trade Region. In the final rule, it was not our intent to prohibit the importation of birds, poultry, and poultry meat and products from Member States of the APHIS-defined EU Poultry Trade Region that conduct trade in poultry and poultry products with other regions that APHIS recognizes as being free of Newcastle disease and highly pathogenic avian influenza. It was also not our intent that the import requirements for cooked poultry meat and products from the APHIS-defined EU Poultry Trade Region not be equivalent with the requirements we apply to other regions whenever an outbreak of Newcastle disease or

highly pathogenic avian influenza occurs in those regions. This document amends the regulations to reflect our original intentions.

EFFECTIVE DATE: [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Mr. Javier Vargas, Case Manager, Regionalization and Evaluation, National Import Export Services, Veterinary Services, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 851-3300.

SUPPLEMENTARY INFORMATION:

In a final rule¹ that was published in the Federal Register on March 29, 2013 (78 FR 19080-19085, Docket No. APHIS-2009-0094), and effective on April 15, 2013, we amended the regulations governing the importation of animals and animal products by recognizing 25 Member States of the European Union (EU) as the Animal and Plant Health Inspection Service (APHIS)-defined EU Poultry Trade Region.

The rule was based on our determination that the region meets our requirements for being considered free of Newcastle disease and highly pathogenic avian influenza (HPAI) and established requirements for the importation of live birds and poultry, and poultry meat and products, from the APHIS-defined EU Poultry Trade Region.

As published, § 94.28(a)(3) requires that live birds and poultry from which poultry meat and products are derived and intended for export to the United States must only originate from within the APHIS-defined EU Poultry Trade Region, and that the farms of origin must not have received live birds or poultry imported from outside the APHIS-defined EU Poultry Trade Region. Similarly, § 94.28(b)(3) requires that live birds and poultry intended for export to the United States must only originate from within the APHIS-defined EU Poultry Trade Region and

¹To view the rule, supporting analyses, and comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2009-0094>.

that the farms of origin must not have received birds or poultry imported from outside the APHIS-defined EU Poultry Trade Region.

These import requirements are not consistent with how we regulate poultry imports from other countries and regions that we recognize as being free of Newcastle disease and HPAI. We allow such regions to import live birds and poultry, and poultry meat and products, from other regions that are also free of those diseases, and we intended the APHIS-defined EU Poultry Trade Region to be able to do likewise.

Therefore, in keeping with our original intention, we are removing paragraphs (a)(3) and (b)(3) in § 94.28. Paragraph § 94.28 (a)(5) will be redesignated as § 94.28 (a)(4) and paragraph § 94.28 (b)(5) will be redesignated as § 94.28 (b)(4). References to these paragraphs in paragraphs (c) and (d) of § 94.28 will be amended to reflect these changes. As a result, farms within the APHIS-defined EU Poultry Trade Region will be able to export to the United States live birds and poultry originating from outside their region, as well as poultry meat and products that were derived from poultry originating from outside their region.

However, § 94.28(a)(1) and (b)(1) will continue to require that live birds and poultry, and poultry meat and products, must not have been from regions or zones in which Newcastle disease or HPAI are considered to exist. Likewise, paragraphs (a)(2) and (b)(2) of § 94.28 will continue to require that prior to export to the United States, live birds and poultry, and poultry meat and products, are not commingled with live birds and poultry, or poultry meat and products, from regions where Newcastle disease or HPAI are considered to exist. Additionally, live birds and poultry, and poultry meat and products, imported from the APHIS-defined EU Poultry Trade Region must be accompanied by a certificate indicating the zone of origin within that region. This requirement ensures they do not originate from restricted zones imposed within the APHIS-defined EU Poultry Trade Region due to outbreaks of Newcastle disease or HPAI.

In addition, we intended that the import requirements for cooked poultry meat and products from the APHIS-defined EU Poultry Trade Region be equivalent with the requirements we apply to other regions whenever an outbreak of Newcastle disease or HPAI occurs in those regions. Therefore, we are amending § 94.28(a)(1) by adding a statement that poultry meat and products are also allowed to be imported to the United States from the APHIS-defined EU Poultry Trade Region if accompanied by a certificate specifying that the articles were cooked and processed in accordance with the regulations in § 94.6(b)(3) or (b)(4).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, NEWCASTLE DISEASE, HIGHLY PATHOGENIC AVIAN INFLUENZA, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, SWINE VESICULAR DISEASE, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, 7781-7786, and 8301-8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

2. Section 94.28 is amended as follows:

- a. By revising the introductory text of paragraph (a)(1);
- b. By removing paragraph (a)(3) and redesignating paragraphs (a)(4) and (a)(5) as paragraphs (a)(3) and (a)(4), respectively;
- c. In newly designated paragraph (a)(4), by removing the reference “(a)(4)” and adding the reference “(a)(3)” in its place;

- d. By removing paragraph (b)(3) and redesignating paragraphs (b)(4) and (b)(5) as paragraphs (b)(3) and (b)(4), respectively;
- e. In newly designated paragraph (b)(4), by removing the reference “(b)(4)” and adding the reference “(b)(3)” in its place;
- f. By withdrawing the amendment to paragraph (c) published December 4, 2013 (78 FR 73001);
- g. In paragraph (c), by removing the citation “§ 94.28(b)(5)” and adding “paragraph (b)(4) of this section” in its place; and
- h. In paragraph (d), by removing the references “(a)(5)” and “(b)(5)” and adding the references “(a)(4)” and “(b)(4)” in their place, respectively.

The revision reads as follows:

§ 94.28 Restrictions on the importation of poultry meat and products, and live birds and poultry, from the APHIS-defined EU Poultry Trade Region.

(a) * * *

(1) The poultry meat and products must not have been derived from birds and poultry that were in any of the following regions or zones, unless the birds and poultry were slaughtered after the periods described, or unless the poultry meat and products are accompanied by a certificate specifying that the articles were cooked and processed in accordance with the regulations in § 94.6(b)(3) or (b)(4):

* * * * *

Done in Washington, DC, this 3rd day of February 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

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